CHAPTER NO. 768

SENATE BILL NO. 3107

By McNally, Finney

Substituted for: House Bill No. 3385

By Shepard

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 10, Part 2 and Title 63, Chapter 10, Part 4, relative to quality assurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-10-204, is amended by adding the following as appropriately numbered new subdivisions and renumbering the remaining subsections accordingly:

( ) "Continuous quality improvement program" means a system of standards and procedures to identify and evaluate quality-related events and improve patient care;

( ) "Quality assurance program" means a system for identifying problems in patient care that are resolved via administrative, clinical, or educational actions to ensure that final products and outcomes meet applicable specifications;

( ) "Quality-related event" means the inappropriate dispensing or administration of a prescribed medication including, but not limited to:

(A) A variation from the prescriber's medical or prescription order, including, but not limited to:

(i) Dispensing an incorrect drug;

(ii) Dispensing an incorrect drug strength;

(iii) Dispensing an incorrect dosage form;

(iv) Dispensing the drug to the wrong patient; and

(v) Providing inadequate or incorrect packaging, labeling or directions for use; and

(B) Failure to identify, prevent, resolve, and manage potential and actual drug and drug-related problems, including, but not limited to:

(i) Over-utilization and under-utilization;

(ii) Therapeutic duplication;

(iii) Drug-age contraindications;

(iv) Drug-allergy contraindications;

(v) Drug-disease contraindications;

(vi) Drug-gender contraindications;

(vii) Drug-drug interactions;

(viii) Incorrect drug dosage;

(ix) Incorrect duration of drug therapy; and

(x) Clinical abuse/misuse.

SECTION 2. Tennessee Code Annotated, Section 63-10-401, is amended by deleting such section in its entirety and by substituting instead the following:

It is the policy of the state to encourage committees made up of Tennessee's licensed pharmacists to candidly, conscientiously and objectively evaluate their peers' professional conduct, competence and ability to practice pharmacy and their personal conduct as it relates to the performance of their professional duties. It is further the policy of the state to encourage pharmacists to implement continuous quality improvement programs and quality assurance programs to identify and evaluate quality-related events, reduce medication-related errors, generate data useful to studying the causes of medication errors and improve patient care. The state further recognizes that confidentiality is essential to effective functioning of peer review committees, continuous quality improvement programs and quality assurance programs, and to continued improvement in patient safety and patient care.

SECTION 3. Tennessee Code Annotated, Section 63-10-405, is amended by designating the existing language as subsection (a) and by adding the following new subsections thereto:

(b) All information, interviews, reports, statements, memoranda or other documents and materials created in the course of operation of a pharmacy continuous quality improvement program or quality assurance program shall be privileged and confidential and shall not be subject to discovery, or subpoena or other means of legal process or introduction into evidence in any civil action, arbitration, administrative proceeding or state board of pharmacy proceeding. The pharmacy shall hold the privilege to all information, interviews, reports, statements, memoranda or other documents and materials created in the course of the pharmacy's continuous quality improvement program or quality assurance program.

Such privilege may be waived by the pharmacy. Nothing in this subsection (b) shall affect the discoverability of any records not solely generated for or maintained as a component of a pharmacy's ongoing continuous quality improvement program and quality assurance program.

(c) Nothing in subsection (b) shall be construed to prohibit a pharmacy from compiling, disclosing, reporting, or otherwise using information or data that may be generated from the privileged and confidential documents and materials described in subsection (b) where the compiling, disclosing, reporting, or otherwise using of the information or data is for the purpose of conducting research, providing education, reporting to federal or state patient safety or quality improvement databases, developing best practice guidelines, or for similar other purposes, if personal information is redacted prior to disclosure.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 15, 2006

JOHN S. WILDER
SPEAKER OF THE SENATE

JIMMY NAIFEH, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2006

PHIL BREDESEN, GOVERNOR